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21839 7590 06/12/2009

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EXAMINER

CADUGAN, ERICA E

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 06/12/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,838	07/20/2006	Daniel Gubler	003850-012	6230

TITLE OF INVENTION: PROCESS FOR PRODUCING DENTAL PROSTHESES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/14/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

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B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

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	(Depositor's name)
	(Signature)
	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,838	07/20/2006	Daniel Gubler	003850-012	6230

TITLE OF INVENTION: PROCESS FOR PRODUCING DENTAL PROSTHESES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/14/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
CADUGAN, ERICA E	3726	409-084000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). <input type="checkbox"/> Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached. <input type="checkbox"/> "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.	2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____ (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____ 3 _____
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3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted: <input type="checkbox"/> Issue Fee <input type="checkbox"/> Publication Fee (No small entity discount permitted) <input type="checkbox"/> Advance Order - # of Copies _____	4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above) <input type="checkbox"/> A check is enclosed. <input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached. <input type="checkbox"/> The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).
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5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____	Date _____
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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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10/551,838	07/20/2006	Daniel Gubler	003850-012	6230
21839	7590	06/12/2009	EXAMINER	
BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			CADUGAN, ERICA E	
			ART UNIT	PAPER NUMBER
			3726	
DATE MAILED: 06/12/2009				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 135 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 135 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)	
	10/551,838	GUBLER ET AL.	
	Examiner	Art Unit	
	Erica E. Cadugan	3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to election filed 3/19/2009.
2. ☒ The allowed claim(s) is/are 18-20 and 22-31.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input checked="" type="checkbox"/> Other <u>Attachment showing Drawing Changes</u>. |
|---|--|

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Peter deVore on June 4, 2009.

The application has been amended as follows:

2. In the specification, on page 8, between lines 4 and 5, the following has been added:

Figure 4 shows a process for producing a blank.

Claims 1-17 (Previously Canceled).

18. (Currently Amended) A blank for producing dental prostheses, wherein the blank is made from ceramic material being in unsintered form or being not finally sintered and wherein the blank is configured as a round or quasi-round disk with a diameter greater than 50 mm and wherein the blank comprises in the peripheral direction thereof means for its force-locking clamping in a holding device of a CAD/CAM machining station.

19. (Previously Presented) A blank as claimed in claim 18, wherein the blank has a diameter of at least 80 mm.

20. (Previously Presented) A blank as claimed in claim 18, wherein the blank has a thickness of greater than 10 mm.

21. (Canceled)

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22. (Currently Amended) A blank as claimed in claim [21] 18, wherein said means for its force-locking clamping comprises at least one concentric groove.

23. (Previously Presented) A blank as claimed in claim 18, comprising a fully isostatic or quasi-isostatic pressed ceramic material.

24. (Previously Presented) A blank as claimed in claim 18, wherein said ceramic material comprises zirconium oxide.

25. (Previously Presented) A blank as claimed in claim 18, wherein said dental prostheses comprise bridges, crowns or implants.

26. (Currently Amended) A process for producing a blank according to claim 18, wherein a cylindrical or quasi-cylindrical compact is formed by fully isostatic or quasi-isostatic pressing of ceramic material and wherein the blank is one of a plurality of disk-shaped blanks of varied thickness that are separated at a right angle to an axis of the compact.

27. (Previously Presented) A process as claimed in claim 26, wherein an outer periphery of the compact is cylindrically turned.

28. (Currently Amended) A process as claimed in claim 26, wherein the blanks are of at least 80 mm diameter and are produced in fully isostatic pressing.

29. (Currently Amended) A process as claimed in claim 26, wherein the one blank has a thickness of greater than 10 mm.

30. (Previously Presented) A process as claimed in claim 26, wherein the ceramic material comprises zirconium oxide.

31. (Currently Amended) A process as claimed in claim 26, wherein the one blank has a cylindrical form and the means for its force-locking clamping comprises [receives] concentric grooves [in a peripheral direction].

3. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: a new Figure (Figure 4) has been added in the form of a flow chart; a first box in the flowchart contains the text “Cylindrical or Quasi-Cylindrical Compact Formed by Fully or Quasi- Isostatic Pressing”, the second box in the flowchart contains the text “Outer Periphery of Compact is Cylindrically Turned”, the third box of the flow chart contains the text "Separation of Plural Disks of Varied Thickness At Right Angle to Axis of Compact”. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

4. The following is an examiner’s statement of reasons for allowance:

U.S. Pat. No. 4,443,394 to Ezis teaches a blank made from ceramic material (see at least col. 2, lines 47-50, for example) that is in green or “unsintered” pressed (re claim 23) form wherein the blank is configured as a round disk having a diameter of about 6 inches, which is “greater than 50 mm” (see at least col. 3, lines 44-50), noting that 50 mm is equivalent to 1.9685 inches.

It is noted that the limitation “for producing dental prostheses” is an intended-use type limitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the instant case, it appears that the disk taught by Ezis is

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capable of performing the intended use of producing “dental prostheses”, simply by cutting “dental” prostheses shapes out of the disk, for example.

Further note that the material taught by Ezis is a ceramic including SiO_2 , Y_2O_3 , and Al_2O_3 (see Ezis col. 2, lines 47-50, for example). As evidenced by U.S. Pat. No. 7,157,096 to Zhang et al., such a material is considered to be biocompatible, and thus in that sense, able to be used as a dental prosthetic. See particularly Zhang, col. 3, lines 61-62, and col. 4, lines 43-47, col. 4, lines 54-61, particularly noting the teaching of the material that includes “combinations” of SiO_2 , Y_2O_3 , and Al_2O_3 as specifically described in col. 4, lines 59-61.

However, Ezis does not teach that “the blank comprises in the peripheral direction thereof means for its force-locking clamping in a holding device of a CAD/CAM machining station” as set forth in claim independent 18. It is noted that the limitation “means for its force-locking clamping in a holding device of a CAD/CAM machining station” is being interpreted in accordance with 35 USC 112, 6th paragraph.

The following is a quotation of the sixth paragraph of 35 U.S.C. 112:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such a claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

In the instant case, the term “means for its force-locking clamping in a holding device of a CAD/CAM machining station” sets forth a means for performing the function of force-locking clamping of the blank in a holding device of a CAD/CAM machining station, and the specification describes and shows the use of peripheral concentric grooves 6 to perform this function (see at least page 8, lines 6-12, as well as the grooves 6 that are shown and labeled in

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Figure 1, and shown but not labeled in Figure 1 at the periphery of the blank 3, as well as original claim 9). Thus, in accordance with 35 USC 112, 6th paragraph, the term “means for its force-locking clamping in a holding device of a CAD/CAM machining station” is considered to encompass the peripheral concentric grooves disclosed in the specification and equivalents thereto.

There is no combinable teaching in the prior art of record that would, reasonably and absent impermissible hindsight, motivate one having ordinary skill in the art to so modify the teachings of Ezis, and thus, for at least the foregoing reasoning, Ezis does not render obvious the present invention as set forth in independent claim 18.

Additionally, U.S. Pat. Application Publication No. 2004/0067839 to Nawa et al. (which is an intervening reference, available as prior art under 35 USC 102(e) since no certified translation of Applicant's Swiss priority application has been made of record in the present case) teaches a blank in the form of a round (note the single diameter provided and "disk-shaped" description in paragraph 0069) ceramic material, the blank being green or "unsintered", and having a diameter of 68 mm, which is greater than 50 mm as set forth in claim 18. See paragraphs 0048-0048, 0067, 0069, 0075, and 0077, for example. Nawa explicitly teaches that the material is acceptable for artificial teeth (paragraph 0004) or artificial “dental root, abutment and crown” (paragraph 0087, for example), and thus, the blank is considered to be capable of performing the intended use of "producing dental prostheses" at least by cutting out such a dental prosthesis shape from the blank.

However, Nawa does not teach that the “blank comprises in the peripheral direction thereof means for its force-locking clamping in a holding device of a CAD/CAM machining station” (see above re Examiner’s comments re this limitation and 35 USC 112, 6th paragraph).

Also, there is no combinable teaching in the prior art of record that would, reasonably and absent impermissible hindsight, motivate one having ordinary skill in the art to so modify the teachings of Nawa et al, and thus, for at least the foregoing reasoning, Nawa et al. does not render obvious the present invention as set forth in independent claim 18.

Re U.S. Pat. Application Publication No. 2002/0155412 to Panzera et al., Panzera teaches that it is well-known in the art to use a CAD/CAM machining station to mill dental prostheses from green or not finally sintered ceramic zirconium oxide blocks or similar shapes (see abstract, paragraphs 0009-011).

Though Panzera teaches that the “green bodies are formed into any desired shape and configuration which will render a dental restoration” (paragraph 0016), and Panzera provides a specific example of a green rectangular block having dimensions of 1.0 in. x 0.6 in. x 0.6 in. (paragraph 0027; note that this is equivalent to 25.4 mm x 15.24 mm x 15.24 mm), Panzera does not explicitly teach that the blank is configured as a “round or quasi-round disk”, nor of such a disk that has a “diameter greater than 50 mm” as set forth in claim 18.

However, even assuming *arguendo* that it would have been obvious to one having ordinary skill in the art in light of Panzera’s teachings of forming the green bodies or blanks into any desired shape and configuration which will render a dental restoration to have made the blanks be “round or quasi-round disks” instead of rectangular blocks, (and in light of teachings such as Ezis that show that green disks in the claimed size range are capable of being produced)

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and to have further made such round or quasi-round disks “with a diameter greater than 50 mm”, the present invention as set forth in independent claim 18 still would not result, noting that Panzera doesn't teach that the “blank comprises in the peripheral direction thereof means for its force-locking clamping in a holding device of a CAD/CAM machining station” (see above re Examiner's comments re this limitation and 35 USC 112, 6th paragraph).

Also, there is no combinable teaching in the prior art of record that would, reasonably and absent impermissible hindsight, motivate one having ordinary skill in the art to so modify the teachings of Panzera et al, and thus, for at least the foregoing reasoning, Panzera et al. does not render obvious the present invention as set forth in independent claim 18.

Additionally, re WO 02/45614 to Filser, U.S. Pat. No. 7,077,391 to Filser et al. is an English language equivalent, and all references to column and line numbers re WO '614 will be with respect to the US '391 patent. Filser teaches a ceramic (such as zirconium oxide) blank that is green or prior to final sintering (col. 1, lines 13-34, for example). Filser further teaches that the blank is used for producing dental prostheses, such as crowns or bridges (see the last sentence of the abstract, and col. 4, lines 4-28, for example for example). Filser teaches that the blank “may have any desired geometric shape” (col. 2, lines 39-49, for example).

Filser shows blanks 10 of cylindrical shape having a round or quasi-round cross-section and having a diameter of 25 mm (see Figure 1 and col. 4, lines 63-65) for example and a length of 48 mm, i.e., a length that is nearly twice its diameter.

However, firstly, it does not appear to be reasonable to consider a cylindrical block such as that shown in Figure 1 to be a “round or quasi-round disk” as set forth in claim 18, noting that the relevant definition from the Merriam-Webster's Collegiate Dictionary, 10th ed., appears to be

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"a thin circular object". Thus, it does not appear that an object whose thickness is nearly twice its diameter can be considered a "thin" circular object as set forth in claim 18.

Thus, Filser does not explicitly teach a ceramic green blank configured as a "round or quasi-round disk" at all, much less one that has a diameter "greater than 50 mm" as claimed (noting that the blank 10 described by Filser has a diameter of only 25 mm).

However, even assuming *arguendo* that it would have been obvious to one having ordinary skill in the art in light of Filser's teachings of forming the green bodies or blanks into "any desired geometric shape" to have made the blanks be "round or quasi-round disks" instead of the cylindrical members, the present invention as set forth in independent claim 18 still would not result, noting that Filser doesn't teach that the "blank comprises in the peripheral direction thereof means for its force-locking clamping in a holding device of a CAD/CAM machining station".

As noted previously, in accordance with 35 USC 112, 6th paragraph, the term "means for its force-locking clamping in a holding device of a CAD/CAM machining station" is considered to encompass the peripheral concentric grooves disclosed in the specification and equivalents thereto.

While Filser does teach that frame 12 may be clamped in holder 24 (Figures 14, 1, 2, col. 5, last two lines) via a special design on the outside of the frame 12, such as spheres, pyramids, hemispheres, or a dovetail and roof form (col. 3, lines 49-54), it is noted that such structure would be between the frame 12 and the holder 24, and that such is not a teaching of any blank 10 that would "comprise in the peripheral direction thereof means for its force-locking clamping in a holding device of a CAD/CAM machining station" as set forth in claim 18.

Additionally, Filser teaches, in col. 3, lines 30-35 that “[W]hether the frame can be changed in its dimensions, for example by legs which can be inserted in one another, or the adhesive is applied in recessed grooves of the blank, or other variations are carried out, is left to the judgment of the person skilled in the art and takes place in particular according to economical viewpoints”. However, it is noted that the adhesive referred to appears to be in relation to adhesive gap 14 (see Figures 2, 4, col. 5, lines 4-12). Note that in Figures 2, 4, or indeed, in all embodiments shown by Filser in Figures 1-16, the frame 12 is not located concentrically with respect to the blank, see Figures 1-16, and thus, it does not appear that whatever grooves are referred to in col. 3, lines 30-35 are both “peripheral” and “concentric”. This is in contrast to the present invention wherein the peripheral grooves 6 are concentric with the blank (see Figures 1-2). Additionally, the arrangement taught by Filser does not appear to be an equivalent under 35 USC 112, 6th paragraph. Note that in most of Filser’s embodiments, the frame 12 covers up a sizable portion of the face of the blank that the present invention desires to have accessible by the machining tool 2 to cut the prostheses 8, 9 (Figures 1, 2 of the present application). Regarding the embodiment of Figure 2 wherein frame member 12 is U-shaped to leave one end surface open, note that even applying the grooves described in col. 3, lines 30-35 to the embodiment of Figure 2, an equivalent to the present “in the peripheral direction” (which merely provides the location of the means plus function limitation) “means for its force locking clamping in a holding device of a CAD/CAM machining station” does not result, noting that if the U-shaped frame 12 was applied to a disk (i.e., to a blank having a thickness that could reasonably be considered a “disk”), the bottom connector leg of the U-shaped frame would appear to be problematic during the machining of the prostheses 8, 9, as there would be the need

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to avoid machining through the connector portion of the U of the frame when machining the prostheses 8, 9, which is not a concern with the configuration of the "means for its force-locking clamping in a holding device of a CAD/CAM machining station".

Also, there is no combinable teaching in the prior art of record that would, reasonably and absent impermissible hindsight, motivate one having ordinary skill in the art to so modify the teachings of Filser et al., and thus, for at least the foregoing reasoning, Filser et al. does not render obvious the present invention as set forth in independent claim 18.

Additionally, regarding the print-out from www.dentalzirconia.com showing the 100mm digital dental zirconia discs, it is noted that the wayback machine, i.e., the internet archive, <http://www.archive.org/index.php>, could not find a match for this web page, and thus, there is no evidence that such was available as prior art prior to any effective filing date of the present invention (i.e., prior to at least April 3, 2004, since Applicant has not perfected their priority to the Swiss application by filing a certified translation thereof).

All of the aforescribed prior art being representative of the closest prior art of record, for at least the foregoing reasoning, the prior art of record neither anticipates nor renders obvious the present invention as set forth in independent claim 18.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Election/Restrictions

5. Claims 18-20 and 22-25 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 26-31, directed to the process of making an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on February 17, 2009 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Oath/Declaration

6. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602.

Specifically note that the declaration sets forth “[I] believe I am the original, first and sole inventor...or an original, first and joint inventor... of the subject matter which is claimed and for which a patent is sought on the invention entitled: PROCESS FOR PRODUCING DENTAL PROSTHESES the specification of which was filed as United States Patent application Number on October 3, 2005...”, i.e., the actual U.S. application number was left blank. As a side note, since the present case is actually a national stage application filed under 35 USC 371, as indicated by the Notice of Acceptance of Application under 35 USC 371 and 37 CFR 1.495 (form PTO -903) mailed August 20, 2007, it appears that the box "was filed as PCT International application Number.... should be checked and properly filled in with the PCT application number of which the present application is the national stage.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica E. Cadugan whose telephone number is (571) 272-4474. The examiner can normally be reached on Monday-Thursday, 5:30 a.m. to 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Erica E Cadugan/
Primary Examiner
Art Unit 3726

eec

June 4, 2009